IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY

NOTICE OF MOTION NO.79 of 1999
IN
INSOLVENCY NOTICE NO.N/63 of 1999

Re: Hemant Manohar Nabar & Ors..Debtors

Ex-parte:
1. M/s.Farohar & Co. & Ors.Judgment Creditors

Mr. Kishore Jain i/b. G.R. Mehta, for Judgment Creditors
Judgment Debtors absent.

CORAM: F.I. REBELLO, J.
DATE : 16th August, 2005

P.C.:

1. By order dated 29th March, 2001 a learned Judge of this Court was pleased to refer the matter arising out of the Motion to a larger bench. The issue referred was whether Insolvency Notice under Section 9 of the Presidency Town Insolvency Act can be set aside on the ground that the decree was not enforceable for want of leave of the Court under Order 21 Rule 22 of the Code of Civil Procedure. In reference the learned Appellate Bench of this Court by order dated 8th April, 2005 held that the position of law as it stands today is that it is those grounds under Section 9(5) which are the grounds available to a debtor to seek for setting aside or discharge or an insolvency notice and accordingly answered the reference. When the matter is called out none present for the judgment debtors. Motion dismissed for non-prosecution.

(F.I.REBELLO, J.)